UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/SR.1679
28 July 1998

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Sixty-third session

SUMMARY RECORD OF THE 1679th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 17 July 1998, at 10 a.m.

Chairperson: Ms. CHANET

later: Ms. MEDINA QUIROGA
(Vice-Chairperson)

later: Ms. CHANET
(Chairperson)

later: Mr. BHAGWATI
(Vice-Chairperson)

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Fourth periodic report of Italy

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.98-16961 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Fourth periodic report of Italy (CCPR/C/103/Add.4; CCPR/C/63/Q/ITA/1/Rev.1)

1. At the invitation of the Chairperson, Mr. Alessi, Mr. Citarella, Mr. Pierangelini, Mrs. Barberini and Mrs. Antonelli (Italy) took places at the Committee table.

2. The CHAIRPERSON welcomed the Italian delegation and paid a warm tribute, on behalf of his colleagues on the Committee, to Mr. Pocar, the Italian member.

3. Mr. ALESSI (Italy), reviewing the developments that had taken place between January 1996, the date of completion of Italy's fourth periodic report (CCPR/C/103/Add.4), and June 1998, drew attention to Act No. 675 of 31 December 1996 on the protection of personal data, which represented a significant step forward in upholding the principle of inviolability of privacy. A conscientious objection bill, which was about to be adopted by Parliament, represented another important advance. In the field of criminal law, an Act adopted in August 1997 had modified the provisions of the Code of Criminal Procedure, so as to make it impossible, in cases where a defendant was tried in absentia, for statements made by him or her during the preliminary investigation to be used against third parties without their consent.

4. Under an Act of 16 July 1997, implemented by a Decree-Law of 19 February 1998, criminal offences punishable by less than 20 years' imprisonment could henceforth be tried before a single judge; only the more serious crimes, as well as certain offences against public order and security, certain violent sexual offences and certain cases of criminal bankruptcy had still to come before a panel of judges. The object of the reform was to speed up criminal proceedings in Italian courts.

5. With a view to reducing the prison population, Act No. 165 of 27 May 1998 allowed persons sentenced to less than three years' imprisonment to apply for an alternative penalty within a period of 30 days. As far as the treatment of prisoners was concerned, a recent judgement of the Constitutional Court had confirmed the absolute ban on treatment which was inhuman or inconsistent with the object of reforming the prisoner.

6. With regard to immigration and the status of aliens, an Act adopted by Parliament on 6 March 1998 regulated various aspects of the problem of illegal immigration, provided guarantees for legal immigrants, and envisaged the establishment of a system of international cooperation with the most important countries of origin. Negotiations towards that end had already begun.

7. With regard to the protection of minorities, a Bill designed to bring the legislation in force into line with the general principles embodied in the international instruments had been approved by the Chamber of Deputies on 17 June 1998 and was currently being considered by the Senate. Lastly, with

regard to freedom of worship, the Constitutional Court had adopted an important judgement in November 1997, and a Bill was currently before the Chamber of Deputies to amend the existing legislation which proclaimed Catholicism to be the State religion and merely "accepted" other religions. Criminal laws concerning "offences against the State religion and other accepted creeds" would be amended in consequence.

8. The CHAIRPERSON, having thanked Mr. Alessi for his introduction to the report, invited the Italian delegation to reply to the questions contained in paragraphs 1 to 6 of the final list of issues (CCPR/C/63/Q/ITA/1/Rev.1).

9. Mr. CITARELLA (Italy) said that the institution of the Justices of the Peace was still too recent for any assessment of its impact to be made. In any event, a Justice of the Peace was not empowered to try criminal cases. Several other legislative measures had been adopted to shorten both criminal and civil proceedings before the courts, but their adoption had unfortunately coincided with a considerable increase in the number of cases both civil and criminal, the latter being largely due to the serious and continuing problem of illegal immigration.

10. Special sections of the courts of the first instance had been established to deal with cases that had remained pending for several years and, as already mentioned, less serious criminal cases could henceforth be tried by a single judge instead of by a panel of judges. A positive development could not, however, be expected immediately; the best that could be hoped for was that the increase in the number of cases would be offset by improvements of a procedural nature.

11. Replying to the question in paragraph 1 (b), he said that a mentally disordered offender could be sentenced to compulsory detention in a psychiatric hospital only if he or she was deemed to be dangerous. The dangerous nature of the offender's condition was subject to periodic checks and a decision was taken on the basis of an expert medical examination.

12. In reply to the question in paragraph 1 (c), he said that the decision by juvenile court judges to sentence a minor to confinement in a Juvenile Detention Centre would depend on the seriousness of the crime. Italy had 29 juvenile courts and 21 Juvenile Detention Centres for minors convicted of very serious crimes. In July 1998, the total number of minors detained in such Centres was 471, 259 of whom were aged between 15 and 18 and 216 between 18 and 21; 289 were Italians and 182 were foreigners. During the trial, an accused minor was allowed to remain at large subject to certain measures to ensure his or her presence in court or, where appropriate, attendance at a health establishment.

13. Mrs. BARBERINI (Italy), replying to the question in paragraph 1 (e), said that the Italian legal system was based on the principle that a defendant was entitled to choose how to conduct his defence and whether or not to attend his trial. Whether held in custody or free, a defendant was entitled to refuse to appear at his trial. In that regard, the Italian system was different from that of other countries, both in Europe and elsewhere. However, every defendant, whether or not he appeared in court and even if he wished to conduct his own defence, had to be assisted by a counsel, either of

his choice or appointed by the court. A trial in absentia thus did not limit the right of defence in any way. A further consequence was that there would not automatically be a new trial if the defendant changed his mind and decided to appear before the court after all.

14. The authority to decide whether to proceed in the absence of the defendant lay with the court, provided that the defendant had been duly informed that the trial was to be held and there was no legitimate reason for his non-appearance. Where there was evidence (or probability) of the summons not having come to the defendant's attention through no fault of his own, the court could summon him again. Likewise, if a defendant's failure to appear at the first hearing seemed to be due to a legitimate impediment such as illness, being in custody in another country or unexpected events beyond his control, the court could order another summons to be served.

15. A defendant who considered that a court decision to try him in absentia had been taken in error had the same possibility of redress as a defendant who was present at his trial and was free to appeal against the court's decision. If, during the hearing of the appeal, the defendant was able to prove that the order to hold the trial in absentia was null and void because he had had no knowledge of the summons or for any other legitimate reason, the Court of Appeal would order the first instance trial to be made ex novo.

16. Ms. Medina Quiroga, Vice-Chairperson, took the Chair.

17. Mr. CITARELLA (Italy) said that a sentence passed in absentia was not enforceable and could be suspended by the judge if the defendant could not be found.

18. The regime governing in absentia trials, which was not fully compatible with article 14, was one reason why Italy had not yet withdrawn its reservations to the Covenant. However, his Government was reviewing the situation in the light of the new and more progressive Code of Criminal Procedure. Where reservations related to constitutional provisions, their withdrawal called for the enactment of a law. Other reservations were likely to be withdrawn very soon.

19. In connection with the question in paragraph 3 (a), he said that criminal and disciplinary proceedings had been brought against members of the State police, the carabinieri and the Prison Service Police. As at the end of 1997, criminal proceedings had been initiated against the State police or carabinieri in several hundred cases. In the case of the Prison Service Police, criminal proceedings had been brought during the period from 1994 to 1997 against 122 warders for offences against prisoners coming within the broad definition of torture. The cases currently before the courts concerned such offences as personal injury, beatings, and abuse of disciplinary or correctional procedures.

20. Torture had not yet been made a specific criminal offence because the Italian Criminal Code contained detailed and complex provisions governing all offences coming within the broad definition of torture. As a result, no act of ill-treatment or torture could go unpunished and judges were in a position to ensure that the penalties imposed were commensurate with the gravity of the

offence. However, the Interdepartmental Committee for Human Rights, taking into account the recommendations of the Human Rights Committee and the Committee against Torture, had recommended that the Government should consider incorporating a specific offence of torture in the Criminal Code.

21. At the same time, the Ministry of Justice, motivated by the fiftieth anniversary of the Universal Declaration of Human Rights, was contemplating ways of giving more prominence to the obligations incurred by Italy when it had ratified the Covenant and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. There were plans to table a bill which would introduce torture into the Criminal Code as an aggravating circumstance, thereby enhancing rather than modifying the existing regime.

22. The situation as regards overcrowding in Italian prisons had improved over the past two years but was still a major problem. The total prison population at the end of 1997 had stood at roughly 50,000. However, the amendment to article 655 of the Criminal Code by the Act of 27 May 1998 enabling a convicted person, in the case of a prison sentence of not more than three years, to apply for the execution of an alternative penalty should result in a reduction of between 15 and 20 per cent in the prison population.

23. There were no specific statistical data on criminal offences committed within prisons. However, he would circulate tables compiled by the Ministry of Justice which showed trends over the past five years in a whole range of incidents that occurred in Italian prisons, including various types of offences such as aggressive behaviour, hunger strikes, refusal of health care, suicide attempts and so forth.

24. The situation described in paragraphs 79 and 80 of the report with respect to the incidence of HIV and AIDS among prisoners remained unchanged. The Interministerial Commission for Action Against AIDS had expressed its opposition to the idea of separate detention for HIV-positive prisoners, since it would involve segregation and mandatory screening. Small-scale experimental diagnostic and treatment centres had been established in local prisons in Milan, Naples and Genoa for male detainees infected by the AIDS virus.

25. Referring to paragraph 33 of the report, he said that a special supervisory regime could be imposed by prison authorities for a maximum period of six months on prisoners whose unruly conduct had disrupted the prevailing order in penitentiary establishments. On no account could such a regime involve restrictions on meals, health care, acquisition of authorized articles, daily exercise or interviews with counsel or close relatives. Appeals against the special measures could be lodged with the Surveillance Tribunal and the presence of counsel at the hearing was compulsory. The Constitutional Court had reaffirmed the principle that differentiated regimes must comply with humanitarian principles, be consistent with the primary objective of rehabilitation and allow for participation by detainees in cultural, recreational and other activities aimed at personality development.

26. Suspects could not be interrogated in the absence of counsel and the interrogation must be recorded unless it took the form of a public hearing. Under the Italian legal system, the magistrate responsible for the pre-trial

investigation had the status of a third-party judge since, unlike the Public Prosecutor he was not a party to the proceedings and could be considered independent and impartial. Law No. 332 of 8 August 1995 prohibited the Public Prosecutor from interrogating a person held in police custody prior to the preliminary investigation by an independent magistrate, a provision which enhanced the role of the defence counsel. However, paragraph 124 of the report drew attention to the drawbacks of the system, namely, delays in the investigation process and limitation of the scope of the preliminary investigation which had the sole function of guaranteeing the rights of the accused.

27. Most of the isolated incidents of racial intolerance referred to in paragraph 198 were cases of anti-Semitism. The number of such incidents had increased from 51 in 1996 to 85 in 1997. During the first two months of the current year, eight incidents had been reported, including two involving anti-Semitism. The corresponding figures for the first two months of 1997 were ten and one respectively.

28. Law No. 205 of 25 June 1993 on incitement to racial hatred or discrimination was proving an effective deterrent, as well as a and means of punishment, for racist or anti-Semitic offences. The Central Department for Prevention had circulated instructions to the local police stations concerning the application of the Law.

29. Under the new Law on illegal immigration, his Government was engaged in a vigorous campaign to halt illegal immigration and the exploitation of migrants by criminal organizations. More stringent controls had been introduced at border points and steps had been taken to ensure strict compliance with the new rejection and expulsion procedures. From a humanitarian point of view, however, foreign vessels could not be prevented from docking at Italian ports and their passengers were admitted on a provisional basis.

30. His Government attached high priority to the negotiation of agreements with the countries of origin of illegal immigrants, such as Tunisia, Algeria, Turkey and Albania, in order to establish conditions for the return of such persons unless they were asylum-seekers or recognized refugees.

31. The new immigration Law stipulated that all illegal aliens must be treated with respect. Temporary housing centres had been established in many of the southern towns, where illegal immigrants were provided with assistance, shelter and health care pending a decision on their final status and destination. They were entitled to seek legal advice and to contact acquaintances. Refugees and asylum-seekers enjoyed all the benefits provided for in the Convention on the Status of Refugees and could appeal against any decision involving refoulement or expulsion to another country within or outside Europe.

32. Under the new Law, air and shipping carriers could be fined up to 5 million lire for each passenger they illegally conveyed. In particularly serious cases, their licence to transport passengers could be suspended or revoked. All such carriers were obliged to return illegal immigrants to their point of departure.

33. The recently established Ministry for Equal Opportunities had special powers to take administrative action to ensure absolute parity of treatment of men and women. The oldest piece of legislation in that area dated from 1977 and the basic underlying principle was to ensure equal pay for equal work or work of equal value. The Government had no power to intervene in the establishment of specific working conditions except where they related to health or safety. Wages and other working conditions were negotiated between the trade unions and employers' organizations. However, the new Ministry was endeavouring to investigate the existence of private or semi-private arrangements that violated the general principles of equal pay for equal work. Although some progress had been made, there was still a long way to go before absolute parity was achieved.

34. In 1991, an equal opportunities law had been passed which, in particular, defined indirect discrimination as prejudicial treatment following the adoption of criteria which could place workers of either sex at a disadvantage, and which related to requirements not essential to the performance of the work in question. An Equality Counselling Office had been set up to which complaints of discrimination could be brought, and which provided information and advice. The Constitutional Court had recently declared it unconstitutional for job requirements to include physical parameters such as height that were undifferentiated by sex, regarded as a form of indirect discrimination. In 1992, a law had been passed designed to facilitate employment of women in business, covering such issues as working hours and parental leave. More recently, a directive of 7 March 1997 outlined Italy's plans for implementing the Beijing Platform for Action. His delegation could provide more detailed information on the subject if required.

35. As for the question in paragraph 6 (b), the Ministry for Equal Opportunities had recently introduced a bill to deal with the problem of domestic violence against women. The bill had been approved by the Council of Ministers on 4 July 1997, and was currently awaiting approval by Parliament. It not only penalized any form of violence against women, but also provided that, if the woman was subjected to violence in her own home by any member of her family, the person guilty of the offence could be ordered to leave home and banned from returning.

36. Lord COLVILLE asked, in connection with article 14 of the Covenant, whether there was any system of initial training and subsequent refresher courses for judges and Justices of the Peace, since such a system usually resulted in an improvement in the quality of justice. Had the judiciary in Italy been made familiar with the contents of the Covenant?

37. While he welcomed recent attempts to speed up the judicial process, he would like to know whether it was still true that half the prison population consisted of persons in pre-trial detention. Was there any process whereby a person remanded in custody could apply for release on bail, and how long did that process take?

38. There was evidence to suggest that the provisions of article 14, paragraph 3, subparagraph (c), of the Covenant concerning promptness of trial were not being applied in Italy. In one case, in 1985, a person had died in a police station following severe ill-treatment. In 1990, 10 police officers

had been charged in connection with the death; in 1994, the case had gone to appeal; in 1995, the Court of Cassation had annulled the decision and ordered a retrial; in 1996, some of the police officers had been resentenced by an appeal court, and, finally, the Court of Cassation had annulled that decision in 1997 and ordered a further retrial. There had thus been no conclusion of the criminal proceedings 13 years after the event. Such a delay could not be justified and, if it was the rule rather than the exception in Italy, he would suggest that urgent action be taken to remedy the situation.

39. Ms. Chanet resumed the Chair.

40. Mr. YALDEN said that two members of the delegation had referred to a new Act designed to overcome the problem of prison overcrowding. However, the report indicated that that problem was a major one, with serious effects on the health and hygiene of prisoners. He would like to know what specific measures under the new Act would reduce the prison population by 20 per cent.

41. On the matter of equal rights for men and women, he found the report disappointing: paragraph 25 devoted only four lines to the implementation of article 3 of the Covenant. Italy's third periodic report had provided material on legislation, but had said nothing about progress made in encouraging the employment of women, in either the public or the private sector. No figures were given on the percentage of women in Italy's workforce or on the percentage occupying senior positions. The proportion of women in Parliament was small, which was not an encouraging sign. The delegation had made reference to equal pay for work of equal value, but had suggested that the Government had little say in the matter since wages were decided by collective bargaining. It was vital that there should be legislation governing that important issue. Nothing was said in the report about measures taken to guarantee proper working conditions, or to penalize sexual harassment in the workplace.

42. Concerning the question in paragraph 6 (b) of the final list of issues, he would be glad if the delegation could make the text of the domestic violence bill available to the Committee. He pointed out that, as was clearly stated in the Committee's guidelines on the preparation of reports, it was not sufficient for States Parties to cite legislation that had been enacted. The Committee needed to know what was the actual situation in the country with regard to respect for the rights enshrined in the Covenant.

43. Reference had been made to the Ministry for Equal Opportunities, but nothing had been said about any system of human rights monitoring by an independent body. When Italy's third periodic report had been presented, the Committee had urged that steps should be taken to ensure increased participation by women in public life in Italy, and also that an ombudsman or similar independent institution should be set up to monitor progress. Paragraphs 9 and 10 of the report indicated that the setting up of such an institution was still under study, but he could not see why four years of study should be necessary. Such an institution would also be valuable in helping to deal with the problems of immigrants and foreigners resident in Italy.

44. Lastly, he noted that nothing was stated in the report as to what remedies were available to victims of racial intolerance or discrimination on ethnic grounds.

45. Mr. PRADO VALLEJO said he would appreciate more information on Italy's policy towards refugees. He was aware of the problems caused by the avalanche of immigrants from countries suffering from civil wars and population displacements, but it would seem that, while in some cases reasonable criteria were applied, in others the treatment was discriminatory and restrictive. For instance, in many cases, refugees were held incommunicado, a treatment he considered unnecessarily severe.

46. Incidents of racial violence in Italy unfortunately appeared to be continuing. The concluding observations of the Committee on the Elimination of Racial Discrimination had referred to recent cases of violence against gypsies and persons from North Africa. He would like to know what response had been made by the Italian delegation to the Committee in question on that point.

47. He had not been convinced by the explanations given by the delegation that the problem of torture was covered by the provisions of the Code of Criminal Procedure. It was vital for the effective protection of human rights that torture be specifically classified as a crime, and he pointed out that States parties were obliged under article 2 of the Covenant to adopt such legislative or other measures as might be necessary to give effect to the rights enshrined in it.

48. It would seem that ill-treatment of persons held in prisons in Italy still persisted and that there were frequent cases of ill-treatment of foreigners, which would seem to be linked with the problem of racial discrimination. In other countries, education of police and prison staff in human rights had been shown to give positive results.

49. He stressed that pre-trial detention constituted a violation of the principle of presumption of innocence, and should be the exception rather than the rule. Italy's use of exceptionally lengthy pre-trial detention had always been a matter of concern to the Committee, and he would like to know if there were plans to remedy that situation.

50. He would like to know why male members of the Royal House of Savoy were still prohibited entry to the country, but not female members: that would seem to be a case of discrimination against men.

51. He was not clear what was meant by the statement of the Constitutional Court that detention should not consist of "treatment contrary to the sense of humanity" (para. 32). Lastly, with reference to paragraph 33 of the report, he would like to know what specific remedies were available to detainees who had suffered treatment constituting a violation of their rights.

52. Mr. KLEIN said that he welcomed Italy's ratification four years earlier of the Second Optional Protocol to the Covenant, and also welcomed the judgement referred to in paragraph 30 of the report in respect to extradition

for offences punishable abroad by capital punishment. Those two developments were evidence of a significant advance towards guaranteeing protection of the right to life under article 6 of the Covenant.

53. He would like to know whether the judgement referred to in paragraph 32 of the report had had any influence on consideration of whether sentences of life imprisonment should be subject to review, to allow for the possibility of eventual release.

54. Lastly, he wished to know whether the new Constitutional Court ruling on the protection of individuals subject to extradition procedures against torture and inhuman treatment in their countries of origin covered only ill-treatment by State organs, or extended also to abuse by groups of private citizens.

55. Mr. EL SHAFEI said it was encouraging to see that the Committee's concluding observations on the third periodic report of Italy had been taken into account in the preparation of the fourth, which was concise and precise, but gave extensive details about the regulations governing the enjoyment of human rights. More information was needed, however, about the practical aspects of human rights implementation: fortunately, the oral presentation had done much to fill in the gaps.

56. The ongoing legislative reform and adoption of new legislation was a positive development, as it addressed a number of very important issues. It was likewise encouraging to note the institution of the ombudsman, the designation of torture as a crime and the ratification of the Second Optional Protocol to the Covenant. Reference had been made to steps towards withdrawing Italy's many reservations to the Covenant. That objective had already been suggested, however, during the consideration of the third periodic report, but there had been no practical results so far. He hoped that the Italian delegation would impress on its authorities that the Committee hoped they would seriously consider withdrawing those reservations.

57. There had been extensive reports of ill-treatment of detainees, a matter of considerable concern. The actions of the Italian contingent with the United Nations peacekeeping forces in Somalia had likewise been criticized, and he would like information on the commission that had apparently been set up and on any other actions taken to address such issues. Lastly, he requested details of measures taken to alleviate the concerns expressed by many Governments about the treatment of immigrants and discrimination against foreigners in general.

58. Mr. SCHEININ said that, like Mr. El Shafei, he was concerned about the actions of the Italian military forces in Somalia. The reporting obligations of States parties extended to acts outside the national territory, and the Committee would like to have information on such matters.

59. While he welcomed the delegation's replies to the questions asked in paragraph 5, subparagraphs (c) and (d) of the final list of issues, he would like additional information about the implementation of carrier sanctions, particularly in the light of Italy's obligations under the Schengen and Amsterdam agreements. Italy's delegation to private carriers of some of its

responsibilities for the protection of human rights might raise problems. For example, a person trying to leave his or her own country would have to present a request for asylum to an airline or shipping company, which might well have close ties to the authorities.

60. Referring to the question in paragraph 5 (b), he asked whether current Italian legislation on incitement of racial hatred or discrimination covered calls by public figures for the collective deportation of nationals of a given country - such as, Albania. It had become clear in many Western countries that politicians played a predominant role in promoting tolerance and eradicating xenophobia. He would thus like to know whether any public figures had been prosecuted for incitement to racial hatred.

61. Overcrowding in prisons, immoderate periods of pre-trial detention and the lengthy duration of criminal proceedings were all causes of concern. Comparatively speaking, the number of prisoners in Italy was not very great, and the authorities must take some kind of action. Building new prisons was not the only solution: alternative forms of punishment should also be considered.

62. In the discussion of the Italian report to the Committee on the Elimination of Discrimination against Women, mention had been made of the implications of European economic and monetary union for the situation of women and, more particularly, of the possibility that overall social security cuts might lead to women's exclusion from social security benefits. That problem having been identified, he wondered what had been done or was being done to safeguard the rights of women under articles 3 and 26 of the Covenant.

63. Ms. MEDINA QUIROGA requested clarification of paragraph 37 of the report. It indicated that suspects "under preventive detention" could be denied access to their defence counsel for five days. That appeared to contradict what had been stated by the delegation and raised issues under article 9. She would like to know what, in fact, was the maximum length of preventive detention. Paragraph 84 referred to a person "sentenced to preventive detention of not more than four years", a concept with which she had great difficulty - perhaps it was a translation problem. Similarly, paragraph 79 said that the court would take account of the "remaining period of preventive detention to be served", in making a certain assessment. There, too, she was at a loss to understand what was meant.

64. Paragraph 67, subparagraph (a), of the report referred to violence in sports stadiums, a problem which occurred throughout the world and to which every Government's response, she suspected, raised questions regarding compliance with the Covenant. She was concerned about the ban on entering sports stadiums of persons "reported" to have been on the same premises with weapons. No court conviction for weapons possession or violent behaviour was apparently required, and it was not clear who imposed the ban. Subparagraph (e) indicated that the ban could not exceed one year, but that meant that the person's freedom of movement was being restricted even before a court decision on his or her guilt or innocence had been handed down. She requested clarification on those points.

65. She endorsed Lord Colville's comments on article 14 and agreed with Mr. Yalden that insufficient information had been provided on article 3. Lastly, she concurred with Mr. El Shafei and Mr. Scheinin about the need for information about the events in Somalia.

66. Mr. BUERGENTHAL said he was impressed by the major reforms of criminal procedure and administration of justice in Italy over the past few years and by the role being played by the Constitutional Court in the development of civil liberties. The concerns expressed by other members about "preventive detention" were valid ones. No indication was given in the report of the actual time limits on such detention, and he would like to be enlightened on that point. In particular, he would like to know whether there was any legislation to provide compensation to individuals, in the event they were acquitted of any wrongdoing, for the time spent in preventive detention. If such legislation existed, he would also like to know the rate of success of individual appeals for compensation.

67. The description in paragraph 30 of the report of the Constitutional Court judgement on extradition did not make it clear how that ruling improved on the earlier legislation, and he would welcome clarification of that point.

68. He asked whether it was possible for courts or other independent public organs to carry out surprise inspections of prison facilities. Such a possibility often helped to ensure that prisoners were not abused and that prisons met minimum international standards.

69. The Italian delegation might, perhaps, supplement its excellent explanation of trial in absentia on one point and inform the Committee whether, when an individual was accused of a crime and subsequently could not be found, but there was evidence that a court order had been served, the person was tried in absentia more or less automatically. Lastly, he would like to know if people in pre-trial detention were segregated from those who had already been convicted.

70. Mr. ZAKHIA said it was clear that Italy had achieved legislative equality between men and women in terms of enjoyment of civil and political rights. However, like all Mediterranean countries, it had treated women as inferior to men for many centuries and, consequently, equality on the legislative plane was not in itself sufficient. Practical measures had thus to be taken to reinforce women's place in political life at the highest level, including the executive and the legislature, and he would like to know whether any policies had been instituted along those lines and what role was actually played by women in decision-making.

71. Mr. ANDO said he would like to know whether there was a time limit for pre-trial detention, and if so, what it was. He requested clarification of the reference, in paragraph 51 of the report, to maximum time periods for "preventive detention", save in the case of proceedings relating to organized crime. What was the maximum time period in such a case? Under what conditions was preventive detention imposed? He would also like clarification of the exception for "particularly serious crimes" outlined in paragraph 54: what crimes were meant, and why were they treated differently from other crimes?

72. Referring to paragraph 140 of the report and to Law No. 120, which required Italy to cooperate with the International Tribunal for the Former Yugoslavia, he asked whether Italy had yet handed any suspects over to the Tribunal. Lastly, paragraph 142 described certain provisions in that Law, including one on the role of non-governmental organizations (NGOs). He would appreciate further information on that point.

73. Mr. Bhagwati, Vice-Chairperson, took the Chair.

74. Mr. KRETZMER asked whether a person who was known to be out of Italian jurisdiction, but whose whereabouts were unknown, could be tried in absentia and whether there was a system that made it possible to assume that a person had received a summons to trial. If a person subsequently returned to Italian jurisdiction, did he or she automatically have the right to a retrial?

75. Paragraph 39, subparagraph (a), of the report referred to "pressing reasons" for preventive detention but did not make clear what they were. Paragraph 41 stated that preventive detention was prohibited "when a suspended sentence is likely to be passed", thereby implying that the outcome of the court proceedings could be predicted. Paragraph 39, subparagraph (e), said that refusal to make a statement or admit guilt could not be considered to constitute an actual threat to the gathering of evidence. While the laws seemed fairly reasonable, he feared there might be a disparity between them and their implementation in practice.

76. On prison conditions, he would like to know more about the way in which a complaint of ill-treatment in prison or in preventive detention could be made. To whom was the complaint addressed, how was it processed and what was the time frame for its processing? Was there any protection for incarcerated complainants to prevent them from incurring punishment for their complaints?

77. Mr. LALLAH said he would like to know whether, once a suspect was arrested or taken into custody, he or she had access to counsel immediately. If no statement was taken from a suspect until counsel was present, then what was supposed to happen during the five days preceding his or her meeting with counsel?

The meeting rose at 1 p.m.